

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOHN EUBANKS,

Petitioner,

- against -

UNITED STATES OF AMERICA,

Respondent.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 7 1 09

ORDER

97 Civ. 3891 (PKL)

S7 92 Cr. 392 (PKL)

LEISURE, District Judge:

On October 20, 2008, pro se petitioner John Eubanks filed a motion for "judicial notice pursuant to federal rules 201(b), and pursuant to Federal Rules of Civil Procedure 60(a), or any other rule applicable to the instant matter," together with an amended notice of appeal. (See Docket No. 353.) Because, by Order dated June 5, 2009, the United States Court of Appeals for the Second Circuit denied and dismissed the relief Eubanks requests in these papers, this Court DENIES AS MOOT Eubanks's motion. Notwithstanding the above, the Court attaches to this Order a copy of the Supplement to the PSR regarding John Eubanks.

SO ORDERED.

New York, New York
July 01, 2009



U.S.D.J.

Copies of this Order have been sent to:

John Eubanks
#31776-054
USP Canaan, Unit E-1
P.O. Box 300
Waymart, PA 18472

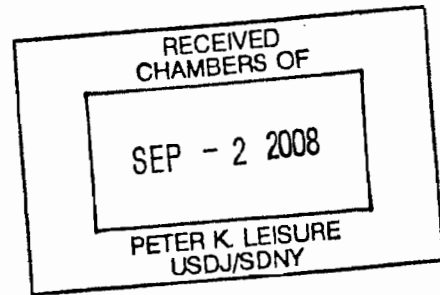
John J. O'Donnell
Assistant United States Attorney
Southern District of New York



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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
PROBATION OFFICE**

MEMORANDUM



TO: Honorable Peter K. Leisure
Sr. U.S. District Judge

John McEnany
Executive AUSA
U.S. Attorney's Office

Leonard Joy
Executive Director, Federal Defenders of New York, Inc.

FROM: Dan J. Voice
U.S. Probation Officer

RE: Eubanks, John; Docket # S7 92 CR 392(PKL)
Crack Cocaine Guideline Amendment - Supplement to the PSR

DATE: August 29, 2008

The May 1, 2008, edition of the Guidelines Manual provides a reduction in the base offense level for crack cocaine, also known as cocaine base. Pursuant to §1B1.10, the guideline has been made retroactive. This memo examines whether John Eubanks is eligible for a reduction pursuant to §1B1.10, and 18 U.S.C. §3582(c)(2).

Identifying Data

Projected Release Date: None, the defendant was sentenced to Life imprisonment.

USMS # 31776-054

FBI # 6919JA7

Sentencing Judge: Honorable Peter K. Leisure

Court Location: New York

Offense of Conviction & Statutory Citation:

Count 1: Conspiracy to Possess with Intent to Distribute Crack Cocaine; 21 U.S.C. §812, 841(a)(1), 841(b)(1)(A), and 846

Eubanks, John

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Count 2: Possession with Intent to Distribute Crack Cocaine; 21 U.S.C. §812, 841, 841(a)(1), and 841(b)(1)(B)

Mandatory Minimum Sentence: Yes, 10 Years

Date of Conviction: December 11, 1992

Original Sentencing Date: February 1, 1994

Was Departure or Variance Employed: No

Initial Screening for Ineligibility:

Base Offense Level of 12	<u>No</u>
Quantity of Crack Cocaine exceeds 4500 grams	<u>Yes</u>
Defendant is a Career Offender (§4B1.1) or Armed Career Criminal (§4B1.4)	<u>No</u>
Defendant Subject to a Mandatory Minimum Sentence in Excess of Applicable Guideline Range (§5G1.1(b))	<u>No</u>

Based upon the initial screening, the defendant is precluded from a sentencing reduction.

Enclosed please find the presentence report, Judgment, and Bureau of Prisons progress report (if available).

Respectfully submitted,

Chris J. Stanton
Chief U.S. Probation Officer

By: 

Dan J. Voice
U.S. Probation Officer
212-805-0410

Approved:



Kathleen Coad
Supervising U.S. Probation Officer

August 29, 2008
Date